

**BY ORDER OF THE COMMANDER
59TH MEDICAL WING**

**59TH MEDICAL WING INSTRUCTION
51-901**



19 AUGUST 2015

Law

OFF DUTY EMPLOYMENT

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements Air Force Policy Directive 51-9, *Civil Law for Individuals*. This instruction provides procedures for Airmen and civilians assigned to the 59th Medical Wing (59 MDW) concerning off-duty employment. This instruction applies to all personnel assigned or attached to 59 MDW. This instruction does not apply to the Air National Guard, Air Force Reserve, or contract personnel. Refer recommended changes and questions about this publication to the Office of Primary Responsibility using the AF Form 847, *Recommendation for Change of Publication*. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with (IAW) Air Force Manual 33-363, *Management of Records*, and disposed of IAW Air Force Records Information Management System Records Disposition Schedule.

SUMMARY OF CHANGES

This publication has been revised. This rewrite of 59 MDWI 51-901 includes updated references and organization names, and added instructions for employment as an expert witness.

1. Overview. The United States Air Force has first call upon the talent and time of all military personnel 24 hours a day. Airmen assigned to the 59 MDW must understand their first responsibility is to their duties within the Air Force Medical Service. Additionally, civilian employees must understand their responsibilities as an employee of the 59 MDW. Off-duty employment for military and civilian personnel must be approved and must not interfere with the individual's duties and responsibilities. Off-duty employment that might generate a responsibility for continuing medical care of patients will not be approved. Individual healthcare

providers on off-duty employment must comply with local licensing requirements and Drug Enforcement Agency requirements, and must provide their own personal liability coverage. The Air Force is not responsible for the actions of individuals working in off-duty employment. Air Force personnel will not engage in outside employment, or other outside medical services, without prior approval.

2. Requirements.

2.1. All physicians must be briefed initially and yearly thereafter by the Chief of the Medical Staff (SGH) on the regulations pertinent to off-duty employment. All other medical personnel will be briefed by the chief of their respective corps or designee. This will be accomplished at the group level, except for members of Wing Staff.

2.2. There must be a need for the medical professional's off-duty medical employment as documented in a written statement by the local professional society, the prospective employer, or the provider. This statement will be provided on 59 MDW Form 169, *Civilian Employer Certification*.

2.3. All off-duty employment packages must be completed with appropriate review, coordination and approval.

2.4. To engage in any off-duty employment, personnel must comply with all applicable legal and ethical requirements, including but not limited to those contained in this instruction; AFI 44102, *Medical Care Management*, paragraph 2.27; and DoD 5500.07-R, *Joint Ethics Regulation (JER)*.

2.5. Each squadron will develop and implement internal review procedures to monitor compliance with off-duty employment provisions at least annually.

3. Application Process.

3.1. Members of the 59 MDW may obtain off-duty employment application packets at the Medical Law SharePoint site found on the 59 MDW web page, which can be viewed at the following URL:

https://admin.sammc-eis.lackland.af.mil/medical_law_consultant/default.aspx

3.2. The completed application, AF Form 3902, *Application and Approval for Off-Duty Employment*, is first given to the member's supervisor for recommendations.

3.3. For privileged providers, the application is then coordinated with the member's Department Chair or equivalent.

3.4. If the prospective off-duty employment includes speaking, teaching, or writing, the member submits the application with a copy of any written presentation materials to 59 MDW/PA for review.

3.5. Next, legal reviews will be conducted for medico-legal and ethical appropriateness.

3.6. The application is then coordinated with the SGH, Chief Nurse (SGN), Senior Corps Representative, or Career Functional Manager, depending on the status of the member. This will be accomplished at the group level, except for members of Wing Staff. If the unit or facility does not have an SGH, the Senior Physician will act in place of the SGH.

3.7. The application is then forwarded to the member's approving authority, in coordination with the squadron commander, for final approval.

3.8. Completed applications are maintained and reviewed at least annually by the member's squadron commander's support staff a monthly summary of off-duty employment will be submitted from each squadron to the group commander. The maintenance of applications, annual support staff review, and monthly summaries may be accomplished at the group level at the group commander's discretion. In all cases, completed applications will be reviewed at least annually by the member's supervisor.

4. Approving Authorities.

4.1. 59 MDW/CC or designee will have final approving authority for off-duty employment requests for military and civilian employees. Except as otherwise provided in this instruction, 59 MDW/CC has delegated approving authority to the group commander level. The authority to approve waivers to the 16-hour-per week maximum remains with 59 MDW/CC and is not delegated.

4.1.1. If a member of the wing staff submits an application, the approving authority is the 59th Medical Support Group Commander (59 MDSG/CC).

4.1.2. If a group commander or comparably senior leader submits an application, the approving authority is retained by 59 MDW/CC.

4.1.3. Squadron commanders will have approval authority for off-duty employment requests for enlisted and civilian personnel who are not employed as healthcare providers.

4.2. All officer personnel and civilian providers must have the recommendations of their supervisor, corps chief, department chair, and squadron commander, prior to forwarding the request to their approving authority.

4.3. If the approving authority is also the member's supervisor, the member may note this in the supervisor's signature block on the AF Form 3902, and the approving authority may sign the form after the legal review has occurred.

4.4. All personnel with primary duties at Lackland must have the recommendation of the Medical Law Consultant prior to approval.

4.5. All off-duty employment requests must have the recommendation of the servicing base legal office prior to approval. For personnel with primary duties at Lackland, the servicing base legal office is 502 ISG/JA; for Randolph, 502 SFLSG/JA; and for Fort Sam Houston, 502 FSG/JA.

4.6. Squadron commanders or higher authority may withdraw permission to engage in off-duty employment at any time, and must withdraw permission when a provider comes under investigation for clinical adverse action or misconduct as described in AFI 44-119, *Medical Quality Operations*, paragraphs 9.15.2 and 9.43.2.

5. Responsibilities.

5.1. 59 MDW/CC will maintain final authority over the off-duty employment program.

5.2. The SGH, SGN, Senior Corps Representative, or Career Functional Manager will coordinate on off-duty employment for personnel within their purview. This will be accomplished at the group level, except for members of Wing Staff.

5.3. Group Commanders will:

5.3.1. Approve or disapprove off-duty employment for all officer personnel and civilian providers.

5.3.2. Review annual statements and monthly reports from squadrons within their group.

5.3.3. Ensure that off-duty employment of personnel or providers does not interfere with military duties. In appropriate circumstances, this responsibility can be delegated to department chairpersons and directors.

5.4. Squadron Commanders will:

5.4.1. Approve or disapprove off-duty employment for all enlisted personnel and civilian personnel who are not employed as healthcare providers.

5.4.2. Coordinate on all off-duty employment for officer and civilian provider personnel.

5.4.3. Maintain an annual statement from each member who has engaged in off-duty employment in the past year, stating current off-duty employment status, along with all monthly reports of off-duty employment (59 MDW Form 167, *Off-Duty Employment Monthly Report of Hours Worked*).

5.4.4. Ensure that copies of the off-duty employment packages and monthly logs for any providers participating in off-duty employment are maintained in the respective Provider Activity Files.

5.5. The Medical Law Consultant will:

5.5.1. Review and provide a written medical-legal recommendation on all off-duty employment packages for 59 MDW personnel with primary duties at Lackland, to ensure legal sufficiency in compliance with DoDM 6025.13, *Medical Quality Assurance (MQA) and Clinical Quality Management in the Military Health System (MHS)*, enclosure 4, paragraph 7; AFI 44-102, paragraph 2.27; AFI 44-119, paragraphs 9.15.2 and 9.43.2; DoDI 6000.08, *Defense Health Program Research and Clinical Investigation Programs*, enclosure 3, paragraph 3i(2); AFI 41-108, *Training Affiliation Agreement Program*, section 2.1.6; and AFI 51-301, *Civil Litigation*, section 9C.

5.5.2. Forward recommendation and off-duty employment package to 502 ISG/JA for legal review and recommendations in Staff Judge Advocate's role as the installation Designated Agency Ethics Official.

5.6. The Credentials Manager will maintain a copy of each privileged provider's AF Form 3902 within the provider's credentials files.

5.7. 59 MDW/PA will review and approve or disapprove any off-duty employment requests that involve speaking, teaching, or writing.

5.8. Each individual seeking off-duty employment must:

5.8.1. Obtain 59 MDW/CC or designee approval before beginning off-duty employment.

5.8.2. Obtain and submit documents required for initial/renewal approval and renewal, in accordance with the 59 MDW Off-Duty Employment Checklist (59 MDW Form 168, *Off-Duty Employment (ODE) Checklist for MC, NC, DC, BSC, MSC, and Medical Technicians*). In order to engage in off-duty employment within their profession, members of the Medical Corps, Dental Corps, Nurse Corps, Biomedical Sciences Corps, Medical Service Corps, medical technicians, and their civilian equivalents must provide the following documents:

5.8.2.1. AF Form 3902.

5.8.2.2. Completed Civilian Employer Certification (59 MDW Form 169).

5.8.2.3. Signed Radiation Exposure Letter (if member will be monitored for radiation exposure). This is available on the Medical Law SharePoint site and a copy must be provided to the Radiation Safety Office.

5.8.2.4. Copy of presentation slides, manuscript, or other written materials when off-duty employment involves speaking, teaching, or writing requiring 59 MDW/PA review.

5.8.3. Submit all hours worked to the member's squadron and group commander. The total number of hours spent "on call" must be reported, regardless of whether the individual received compensation.

5.8.4. Update the status of off-duty employment within one week of any change in status, and recertify off-duty employment annually IAW para 5.8.2.

5.8.5. File an OGE Form 450, *Confidential Financial Disclosure Report* if the off-duty employment creates the potential for conflict of interest, appearance of favoritism, or loss of impartiality.

6. Restrictions on Off-Duty Employment.

6.1. Military and civilian personnel are responsible for compliance with the rules and restrictions outlined in AFI 44-102, section 2.27, which details restrictions on location and duration of off-duty employment, as well as with the JER.

6.2. Off-duty employment must not exceed 16 hours per week averaged over a 4-week period, unless performed while in official leave status. Personnel must allow at least a 6-hour rest period between off-duty employment and return to regular duty hours.

6.3. Personnel are prohibited from performing off-duty employment when they are "on call" for 59 MDW. Similarly, personnel are prohibited from taking responsibility for civilian "call" concurrent with military duty or military "on-call" duty.

6.4. The location of any off-duty employment must be close enough to allow the member the ability to return promptly should the Air Force or 59 MDW require them to do so. The general rule is that a member must be able to report for duty within two hours by land travel after being notified to return for duty, unless the member is on official leave status or it is a non-duty day.

6.5. Military students within the graduate medical education program are not eligible to engage in off-duty employment.

6.6. Personnel must not perform off-duty employment for any agency with which 59 MDW has a training affiliation agreement (TAA) or external resource sharing agreement (ERSA), when the individual would be working in a field covered by the TAA or ERSA.

6.7. In accordance with DoDI 6000.08, enclosure 3, paragraph 3i(2), personnel conducting a research protocol may not engage in off-duty employment, or otherwise be compensated by non-Federal sources, in connection with their work on such clinical investigations unless specifically authorized by law.

6.8. In accordance with AFI 51-301, section 9C, requests for off-duty employment as an expert witness in private litigation require AFLOA/JAC approval. The Medical Law Consultant and servicing base legal office will facilitate coordination with AFLOA/JAC.

7. Compliance and Review Process.

7.1. Records of off-duty employment, including approved applications and monthly reports of hours worked (59 MDW Form 167), will be maintained by the squadron commander's support staff of each member participating in off-duty employment.

7.2. An annual review will be conducted by each group commander's office to ensure compliance with all requirements of off-duty employment.

7.3. A copy of the approved off-duty employment application (AF Form 3902) will be maintained in each provider's provider activity file.

MICHAEL W. GLASS, Colonel, USAF, MSC
Administrator, 59th Medical Wing

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 51-9, Civil Law for Individuals, 5 November 1993

AFMAN 33-363, *Records Management*, 1 March 2008

AFMAN 48-125, *Personnel Ionizing Radiation Dosimetry*, 4 October 2011

AFI 41-108, Training Affiliation Agreement Program, 4 May 2011

AFI 44-102, Medical Care Management, 20 January 2012

AFI 44-119, Medical Quality Operations, 16 August 2011

AFI 51-301, Civil Litigation, 1 July 2002

DoD 5500.07-R, *Joint Ethics Regulation*, 17 November 2011

DoDI 6000.08, *Defense Health Program Research and Clinical Investigation Programs*, 22 January 2014

DoDM 6025.13, *Medical Quality Assurance (MQA) and Clinical Quality Management in the Military Health System (MHS)*, 29 October 2013

DoD Health Affairs Policy 96-050, Policy for Off-Duty Employment by DoD Health Care Practitioners, 7 July 1996

Prescribed Forms

59 MDW Form 167, *Off-Duty Employment Monthly Report of Hours Worked*

59 MDW Form 168, *Off-Duty Employment (ODE) Checklist for MC, NC, DC, BSC, MSC, and Medical Technicians*

59 MDW Form 169, *Civilian Employer Certification*

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*

AF Form 3902, *Application and Approval for Off-Duty Employment*

OGE Form 450, *Confidential Financial Disclosure Report*

Acronyms and Abbreviations

AFLOA/JAC —Air Force Legal Operations Agency, Civil Law and Litigation Directorate

FSG/JA —Force Support Group, Office of the Staff Judge Advocate

IAW —In Accordance With

ISG/JA —Installation Support Group, Office of the Staff Judge Advocate

JER —Joint Ethics Regulation

MDG —Medical Group

MDSG —Medical Support Group

MDW —Medical Wing

PA —Public Affairs

SGH —Chief of the Medical Staff

SFLSG/JA —Security Forces and Logistics Support Group, Office of the Staff Judge Advocate

SGN —Chief Nurse

TAA —Training Affiliation Agreement